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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/528,157	03/17/2005	Michael Meged	MEGED1	6487
1444 7590 02/05/2008 BROWDY AND NEIMARK, P.L.L.C. 624 NINTH STREET, NW SUITE 300 WASHINGTON, DC 20001-5303			EXAMINER OVEISSI, DAVID M	
			ART UNIT 2616	PAPER NUMBER
			MAIL DATE 02/05/2008	DELIVERY MODE PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

## Office Action Summary

Application No.

10/528,157

Applicant(s)

MEGED ET AL.

Examiner

David Oveissi

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 17 March 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-10 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-10 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 17 March 2005 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☒ Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date March 17 2005, May 07 2007.
- ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- ☐ Notice of Informal Patent Application
- ☐ Other: \_\_\_\_\_.

## DETAILED ACTION

### *Claim Objection*

**Note:** The phrase “**adapted to**” recited in claim 7 line 2; the phrase “**adapted for**” in claim 8 line 3; the phrase “**capable of**” in claim 8 line 5; and the phrase “**operative to**” in claim 9 line 2 and claim 10 line 2 are not positively recited claim limitations- see MPEP 2111.04. Therefore, the limitations after the phrase are not considered the claims limitations. It is suggested applicant to remove the phrases.

### *Claim Rejections - 35 USC § 101*

1. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

Claims **8-10** are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter.

The claims **8-10** are directed to non-statutory subject matter because the claimed terms “software product” are non-statutory.

***Claim Rejections - 35 USC § 103***

2. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

3. Following is a quotation of 35 U.S.C. 103(a) which forms basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though invention is not identically disclosed or described as set forth in section 102 of this title, if differences between subject matter sought to be patented and prior art are such that subject matter as a whole would have been obvious at time invention was made to a person having ordinary skill in art to which said subject matter pertains. Patentability shall not be negated by manner in which invention was made.

Claims 1-10 are rejected under 35 U.S.C. 103 (a) as being unpatentable over **Manganini (US 2003/0026203 A1)** in view of **Taniguchi (6,122,250)**.

For claims **1** and **6-10** **Manganini** teaches a method/system/software for protecting Ethernet data packets transmitted over SDH/SONET traffic in a ring-like optical network formed by a number of nodes (*see Fig. 1.1 "nodes A, B, C, D, E, F, G" and paragraph 11* )

**Manganini** teaches the method includes utilizing MS-SPRING/BLSR system for SDH/SONET traffic protection and, in case of one or more network failures that result in at least one isolated node in the network (*see abstract, paragraphs 3, 6, 7, 11, 34, and 36*),

**Manganini** does not teach the method comprises preventing initiation of a squelching algorithm of the MS-SPRING/BLSR system with respect to the SDH/SONET virtual containers carrying the data Ethernet packets. Furthermore, **Taniguchi** from the same field of endeavor teaches this limitation (*see abstract "squelch decision unit", column 2 lines 7-25, column 3 lines 1-27*),

**Taniguchi** also teaches while ensuring that there is no standardized use of byte J1 (*see column 5 lines 1-2*) in the network, with respect to the SDH/SONET virtual containers (*see column 4 line 60*) carrying the Ethernet packets. Thus, it would have been obvious to a person of ordinary skill to combine the SQUELCH decision making of the Taniguchi with MS-SPRING /BLSR traffic protection system of **Manganini** to decide what kind of traffic to be protected and what kind of traffic to be squelched. The motivation for this combination is to provide more flexible system in terms of SDH/SONET traffic.

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4. Claim 2 are rejected under 35 U.S.C. 103 (a) as being unpatentable over **Manganini (US 2003/0026203 A1)** in view of **Dupont (US 7,002,976 B2)**

For claim 2 **Manganini** does not teach explicitly a method, wherein the nodes of the network are ADM (Add Drop Multiplexer) nodes, although, it is well known in the art that SONET nodes consist of ADM. Furthermore, **Dupont** from the same field of endeavor teaches this limitation explicitly (*see column 6 lines 9-25*). Thus, it would have been obvious to the person of ordinary skill in the art at the time of the invention to use the ADM of **Dupont** in the SONET network of **Manganini**. The reason for this combination is to provide various incoming local area networks to be routed in the wide area network of SONET.

For claim 3 **Manganini** teaches a method; wherein the virtual containers of the SDH/SONET traffic are AU-4/AU-3 (*see paragraphs 34 and 39*).

For claim 4 **Applicant** teaches a method, wherein a standardized functionality of byte J1 is inactive in the network (*see paragraph 37*).

5. Claim 5 are rejected under 35 U.S.C. 103 (a) as being unpatentable over **Manganini (US 2003/0026203 A1)** in view of **Miller (US 7,177,328 B2)**.

For claim **5 Manganini** does not teach a method, comprising filling the J1 bytes of all the virtual containers carrying the Ethernet traffic by one and the same binary code word, thereby preventing the standardized use of the byte J1. Furthermore, Miller from the same field of endeavor teaches this limitation (see *column 10 lines 28-29*). Thus, it would have been obvious to a person of ordinary skill at the time of invention to disable using J1 by using Manganini switch method in the Manganini MS-SPRING system. Furthermore applicant teaches this limitation (see *paragraph 37*). The motivation for this combination is to J1 byte can be used for any application.

### ***Conclusion***

6. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure: **Mesh et al. (US 2004/0109408 A1)**, **Kam et al. (US 2005/0041601 A1)**, and **Iga (5,570,371)**.

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to David Oveissi whose telephone number is (571) 270-3127. The examiner can normally be reached on Monday to Friday 8:00 AM to 5:00 PM EST.

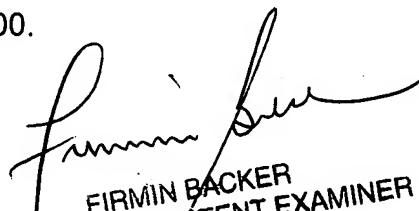
If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Backer Firmin can be reached on (571) 272-6703. The fax phone

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number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

D.O



FIRMIN BACKER  
SUPERVISORY PATENT EXAMINER